

Environmental Protection Act 1994

Environmental Protection Order

This environmental protection order is issued by the administering authority pursuant to section 358 of the Environmental Protection Act 1994.

Wolfgang Deimel
14 Chapel Street
WARWICK QLD 4370

Your reference: EPVL02214614 (ML100140)

Our reference: C-CPLPO-100082649, 100/0006281-001

15/02/2023

Dear Mr Deimel

Take notice: that under the *Environmental Protection Act 1994* (the Act) this environmental protection order (EPO) is issued to **Wolfgang Deimel** (you) by the administering authority. The administering authority is the Chief Executive of the Department of Environment and Science (the department).

The EPO is issued with respect to your activities on land described as ML100140 situated at Carbean Road, Cement Mills (the premises).

A. Grounds

This EPO is issued on the following grounds:

- A. The department requires you to take reasonable action to secure compliance with Environmental Authority (EA) EPVL02214614 standard condition B14 which states:

B14: For all other areas, the holder of the environmental authority must complete the rehabilitation processes on areas disturbed by mining activities, apart from those areas currently being utilised for mining activities, as soon as practical and within six months of the completion of works in those areas.

- B. The department requires you to take reasonable action to secure compliance with the General Environmental Duty. The General Environmental Duty is detailed in section 319 of the Act which states:

A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practical actions to prevent or minimise the harm (the general environmental duty).



The facts and circumstances forming the basis for these grounds are:

1. You are the holder of EA EPVL02214614, which consists of variation conditions and standard conditions contained in the document titled '*Eligibility criteria and standard conditions for mining lease activities, version 2 - (ESR/2016/2241)*'.
2. You undertake gold mining and associated activities on the premises.
3. You have disturbed land at the premises, as a result of gold mining and associated activities.
4. On 26 October 2021, you were issued varied Environmental Protection Order (EPO) E-1000095485.
5. EPO E-1000095485 was issued in response to inadequate erosion and sediment control (ESC) measures being in place at the premises.
6. The inadequate ESC measures resulted in the alleged unlawful release of sediment from the premises.
7. On 30 November 2021, you provided written advice including that land access and your financial position were reasons why you had not implemented appropriate ESC measures on the premises.
8. On 28 January 2022, authorised persons of the department carried out an inspection of the premises in your presence. Authorised persons observed:
 - That while some ESC measures had been completed in response to EPO E-1000095485, soil erosion and mobilisation of sediment laden water was occurring on areas disturbed by mining activities because of, but not limited to, the presence of unstable land, the absence of established vegetation, the absence of sufficient number of diversion drains, the presence of unstable channel banks, topsoil and overburden stockpiles being exposed without measures to reduce or control sediment loss and sediment dams being at capacity.
 - Some efforts had been made to complete some rehabilitation at the premises, however further significant works were required to complete the rehabilitation processes on areas disturbed by mining activities.
 - Sediment laden waters were releasing off the premises.
9. As per EA EPVL02214614, Rehabilitation processes means, the measures and actions taken to achieve rehabilitation outcomes, including any or all of the following: (a) removing all unwanted infrastructure; (b) backfilling mine excavations (e.g. pits) and capping drill holes; (c) reshaping the land surface to a stable landform similar to that of surrounding undisturbed areas; (d) spreading of topsoil; (e) spreading seed or planting seedlings to promote revegetation; (f) benching ridge cuts and removing any overhanging material.
10. During the inspection of 28 January 2022, you indicated to authorised persons that you did not intend to continue/re-start mining activities at the premises.
11. Based on engagements with you, the department understands that you no longer intended to mine at the premises, and you intend to progress a surrender application under the Act for EA EPVL02214614 once you have completed rehabilitation.
12. It is the department's assessment that releases of sediment laden water from the premises to waters is being caused due to inadequate ESC measures being in place and rehabilitation processes not being conducted as soon as practical and within six months of the completion of works in those areas.

13. On 8 July 2022, authorised persons of the department carried out a further inspection of the premises in your presence and observed the following:
 - A significant area of land remained disturbed by mining activities. Disturbance on the premises included but was not limited to overburden stockpiles, topsoil stockpiles, gravel stockpiles, sediment dams, pit areas and internal roads.
 - ESC measures were inadequate and not maintained; erosion and sediment transport was still visible on areas disturbed by mining activities.
 - That while some efforts had been made to complete some rehabilitation at the premises and favourable weather had enhanced the natural revegetation, the mining disturbance had not been rehabilitated to a stable landform similar to that of the surrounding undisturbed areas, and further significant works are required to complete rehabilitation processes.
14. Despite providing the department advice that you have no intention to further mine at the premises, and that you are intending to surrender EA EPVL02214614, you have not completed rehabilitation processes on areas disturbed by mining activities, as soon as practical and within six months of the completion of works in those areas.
15. The department has decided to finalise EPO E-1000095485 and replace it with EPO E-100382316 (this EPO).
16. The department considers that the erosion and sediment control issues at the premises, are at least in part, a function of you not completing rehabilitation processes in a timely manner consistent with obligations under EA EPVL02214614.
17. The department considers that you are not complying with your general environmental duty, as you do not have in place adequate ESC measures and you have not rehabilitated the areas disturbed by mining activities in a timely manner.
18. On the basis of the facts and circumstances outlined, the department considers that it is reasonable to require you to take the actions stated under part B requirements, to secure compliance with condition B14 of your EA EPVL02214614 and your general environmental duty.

B. Requirements

In accordance with this EPO, you are required to do the following:

1. As soon as possible but no later than 31 July 2023, you must rehabilitate areas disturbed by mining activities to a stable landform, similar to that of the surrounding undisturbed areas and consistent with rehabilitation obligations in EA EPVL02214614.
2. By 9 May 2023, you must provide to the department a progress report via email to southwest.es@des.qld.gov.au that includes:
 - details of rehabilitation activities carried out, photos of completed rehabilitation (with associated location descriptors), and a map/s showing completed rehabilitated areas (with areas identified using GPS coordinates)

- a map/s that identifies areas of the premises that require further rehabilitation, with areas identified using GPS coordinates; and
 - details of any engagement with the relevant landowner during the period in relation to rehabilitation.
3. At all times you must have effective erosion and sediment control measures in place for all disturbed areas on the premises.
4. By 11 August 2023 you must provide to the department via email to southwest.es@des.qld.gov.au, a final report which details of rehabilitation activities carried out, photos of completed rehabilitation (with associated location descriptors), and a map/s showing completed rehabilitated areas (with areas identified using GPS coordinates).

C. Obligations

If you propose to dispose of the place or business to which the EPO relates, you **must** advise the buyer of the existence of this EPO.

If you cease to carry out the activity to which this EPO relates, you **must** give written notice of ceasing to carry out the activity to the department within 10 days of ceasing the activity.

Take notice:

- the requirements of this order take effect immediately upon service of the order;
- failure to comply with this order is an offence under the EP Act;
- this order remains in force until further notice from the administering authority.

D. Penalty

It is important that you know the impact to you personally as an individual or as a corporation for not meeting your obligations.

Failure to comply with an EPO is an offence.

- The maximum penalty for wilfully contravening an EPO is 6250 penalty units, totalling \$ 898,437.50 or five years imprisonment for an individual or \$4,492,187.50 for a corporation.
- The maximum penalty for contravening an EPO is 4500 penalty units, totalling \$ 646,875 for an individual or \$3,234,375 for a corporation.

Failure to provide written notice to the buyer of the existence of the order is an offence.

- The maximum penalty is 50 penalty units, totalling \$ 7,187.50, for an individual or \$ 35,937.50 for a corporation

Failure to provide written notice to the department within 10 business days of ceasing the activity to which an environmental protection order relates is an offence.

- The maximum penalty is 50 penalty units, totalling \$ 7,187.50 for an individual or \$ 35,937.50 for a corporation.

Section 3 of the *Penalties and Sentences Regulation 2015* prescribes the monetary value of a penalty unit.

E. Reviews and appeals

The provisions regarding reviews of decisions and appeals are found in sections 519 to 539 of the EP Act.

A person who is dissatisfied with an original decision made by the Department of Environment and Science (the department) may apply to have that decision internally reviewed.

Information about initiating an appeal in relation to this notice is contained within the [Internal Reviews and Appeals Information Sheet](#) (available at www.qld.gov.au using the publication number ESR /2015/1742 as a search term)

A request for review or appeal is to be made using the approved form '[Application for review of original decision](#)' (available at www.qld.gov.au using the publication number ESR/2015/1573 as a search term.

Applications for reviews are to be sent to Permit and Licence Management, Department of Environment and Science: via email at palm@des.qld.gov.au , or by mail to the following address: GPO. Box 2454, Brisbane, QLD, 4001.

Where an application has been made for a decision to be reviewed, the applicant may also apply to the relevant court for a stay of the decision to secure the effectiveness of the review.

Once the original decision has been reviewed, a person who is dissatisfied with the review decision may be able to appeal against that decision to the relevant court within 22 business days after receiving notice of the review decision.

A person whose interests are or would be adversely affected by a decision of the department may be able to request a statement of reasons for a decision or a statutory order review under the *Judicial Review Act 1991*.

You may have other legal rights or obligations and should seek your own legal advice.

Pursuant to section 540 of the Act, the department is required to maintain a register of certain documents and information authorised under the Act. A copy of this document will be kept on the public register. The register is available for inspection by members of the public who are able take extracts, or copies of the documents from the register. Documents that are required to be kept on the register are published in their entirety, unless alteration is required by the Act. There is no general discretion allowing the department to withhold documents or information required to be kept on the public register. For more information on the department's public register, search 'public register' at www.qld.gov.au. For queries about privacy matters please email privacy@des.qld.gov.au or telephone 13 74 68.

Should you have any queries in relation to the notice, please contact Diana Burton on 07 4529 8313 telephone number.

Notice
Environmental Protection Order



Signature

Gus Gonzo

Manager Minerals, Compliance

Delegate of the Chief Executive

Department of Environment and Science

Environmental Protection Act 1994

15/02/2023

Date

Enquiries: Diana Burton

COMPLIANCE CENTRE: Toowoomba

Ph: (07) 4529 8313

Email: southwest.es@des.qld.gov.au